IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.3418 OF 2005

Smita M. Malkar & Ors. ....Plaintiffs
V/s.
Caperod Shipping Ltd. & Ors. ....Defendants

Mr.K.R. Parekh for the Plaintiffs.
Mr.V.K. Ramabhadran with Ms.Vinita Davar for Defendant Nos.1 and 2.

CORAM : S.J. VAZIFDAR, J.
DATED : 31ST JANUARY, 2006.

P.C. :

1. The suit is filed in rather unfortunate circumstances namely the death of the husband of Plaintiff No.1 in an accident on ship. The suit is for damages suffered by the Plaintiffs for untimely death of the first Plaintiff's husband. Plaintiff No.2 is the minor daughter of Plaintiff No.1 and her deceased husband. Plaintiff Nos.3 and 4 are the parents of the said deceased.

2. The suit has been settled. Hence the Plaintiffs desire to withdraw the suit.

3. The settlement itself is reasonable. Defendant No.1 is the owner of the ship on which the

accident occurred. Defendant No.2 is the Manager of the Ship. The suit is settled in the sum of Rs.70,65,493=36 ps. The settlement is in full and final satisfaction of the claims of all the Plaintiffs against all the Defendants in respect of the said accident. Defendant Nos.3 and 4 are the Captain and Chief Officer of the ship. If the suit is not settled, it would unnecessarily drag the Plaintiffs into a long, protracted and expensive litigation.

4. In the circumstances, the suit is allowed to be withdrawn in terms of the minutes of the order, tendered in Court, taken on record and marked "X" for identification. Affidavit of Plaintiff No.1 dated 30.1.2006 is filed in Court. I am in agreement that the facts stated therein establish that the settlement is for the benefit of the minor and there is no interest of Plaintiff No.1 adverse to the interest of Plaintiff No.2 - her minor daughter.

5. The advocate has also filed a certificate stating that the settlement is for the benefit of the minor. In the circumstances, the following order is passed :-

i). The suit is allowed to be withdrawn in terms

of the minutes of order tendered in Court, taken on record and marked "X" for identification.

ii). Plaintiff Nos.3 and 4 shall be entitled to withdraw an aggregate sum of Rs.15,00,000/- from the amount deposited.

iii). An amount of Rs.17,25,000/- being the share of Plaintiff No.2 shall remain deposited in this Court. The office is directed to invest the same in GOI 8% Savings Bond, 2003. The same shall be renewed on maturity after obtaining the orders of this Court.

iv). It shall be the responsibility of the Plaintiffs to make an application for renewal of the investment.

v). Plaintiff No.1 shall be entitled to withdraw the interest/accretions thereto to be utilized for the benefit of Plaintiff No.2.

vi). Plaintiff No.1 shall be entitled to withdraw the balance amount deposited.

vii). The Plaintiffs shall be entitled to withdraw the amounts as aforesaid on their filing an affidavit in Court containing an indemnity indemnifying the Defendants against any claim that may be made in respect of the aforesaid amounts.

. Refund as per rules.

. All concerned parties to act on an ordinary copy of this order duly authenticated by the Chamber Registrar of this Court.